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**Policy:**

**Prudential Compliance**

**2023**

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## INFORMATION ABOUT THIS DOCUMENT

<b>Date Adopted by Council</b>	23 June 2020	<b>Resolution No.</b>	14.06/20
<b>Document Owner</b>	Manager Finance and IT		
<b>Document Development Officer</b>	Finance Officer		
<b>Review Timeframe</b>	Annually		
<b>Last Review Date:</b>	February 2023	<b>Next Scheduled Review Date</b>	February 2024

### **Document History**

<b>Doc No.</b>	<b>Date Amended</b>	<b>Details/Comments eg Resolution No.</b>
1	May 2020	Draft document prepared
	February 2023	Updated

### **Further Document Information and Relationships**

<b>Related Legislation*</b>	<i>Aged Care Act 1997 (Cth)</i> <i>Fees and Payments Principles 2014 (Cth) No. 2</i> <i>Privacy Act 1998</i>
<b>Related Policies</b>	Investment Policy Delegations of Authority Policy Internal Reporting Policy
<b>Related Procedures/ Protocols, Statements, documents</b>	

*Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.*

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**1. PURPOSE AND SCOPE**

The purpose of this policy is to establish the framework which protects residential care recipients’ savings as held by Council in the form of refundable deposit and accommodation bonds as required by the *Aged Care Act 1997 (Cth)* (“the Act”) and the *Fees and Payment Principles 2014 (Cth) No. 2* (“Fees and Payment Principles”).

All approved providers of residential care holding accommodation bonds, refundable accommodation deposits, or pre-1997 entry contributions are required to comply with four prudential standards set out in the Fees and Payment Principles being liquidity, records, governance, and disclosure.

The liquidity standard ensures approved providers have access to sufficient readily available funds to refund accommodation bonds and refundable accommodation deposits.

The records standard ensures accurate, comprehensive and up-to-date information on accommodation bonds, refundable accommodation deposit holdings and entry contributions is collected and maintained.

The governance standard ensures accommodation bonds and refundable accommodation deposits are only used for permitted uses and are refunded in accordance with the timeframes required by the Act.

The disclosure standard ensures the provision of information about the financial management of the approved provider.

This policy applies to Council’s financial management of refundable deposit balances and accommodation bond balances of care recipients through McMaugh Gardens Aged Care Facility. This policy does not apply to any other bond or deposit held by Council for other purposes.

**2. DEFINITIONS**

<b>The Act</b>	<i>Aged Care Act 1997 (Cth)</i>
<b>Accommodation bond</b>	A lump sum amount that may be paid for entry to residential care service. It may be paid as a lump sum, periodic payment, or a combination of both.
<b>Accommodation bond balance</b>	The refundable amount of an accommodation bond.
<b>Care recipient</b>	Resident of McMaugh Gardens Aged Care Facility
<b>Council</b>	Uralla Shire Council as the approved provider of aged care services at McMaugh Gardens Aged Care Facility.
<b>Department</b>	Australian Government Department of Health
<b>Fees and Payment Principles</b>	<i>Fees and Payment Principles 2014 (Cth) No. 2</i>
<b>Refundable deposit</b>	A lump sum amount that may be paid for entry to residential aged care homes from 1 July 2014. It does not accrue daily and is paid as a lump sum.
<b>Refundable deposit balance</b>	The difference between the amount of the refundable deposit and amounts which are permitted to be deducted from the refundable deposit.

**3. LEGISLATIVE CONTEXT**

The *Aged Care Act 1997 (Cth)* (“the Act”) and the *Fees and Payment Principles 2014 (Cth) No. 2* (“Fees and Payment Principles”) set out the requirements for approved providers of residential care holding accommodation bonds and refundable accommodation deposits.

The four prudential standards as set out in the Fees and Payment Principles guide approved providers of residential care in sound financial management practices, improve financial sustainability, and reduce associated risks.

**4. LIQUIDITY STANDARD**

**4.1 Liquidity Management Strategy**

Council will maintain sufficient liquidity (the “minimum level of liquidity”) to ensure it can refund any of the balances of the refundable deposit balances or accommodation bond balances it holds that can be expected to fall due in the following 12 months.

This minimum level of liquidity is to be calculated as equal to or greater than the three year average of refunded accommodation bonds at the rate of the average outstanding accommodation bond as at 30 June over the previous three years as represented in the formula below:

$$\begin{array}{l}
 \textit{Minimum level} \\
 \textit{of liquidity}
 \end{array}
 =
 \begin{array}{l}
 \textit{Average of the} \\
 \textit{accommodation bond} \\
 \textit{amount as at 30 June of the} \\
 \textit{previous three years}
 \end{array}
 *
 \begin{array}{l}
 \textit{Average number of refunds} \\
 \textit{paid over the previous three} \\
 \textit{years}
 \end{array}$$

This amount to be calculated annually and set out in Council’s *Prudential Arrangements Liquidity Statement*, prepared by the Chief Financial Officer and endorsed by the Director of Nursing/Facility Manager McMaugh Gardens Aged Care Facility.

Council will keep cash funds by way of restriction equal to or greater than the minimum level of liquidity.

**4.2 Responsibilities**

Council’s Chief Financial Officer, as Council’s Refundable Deposit Manager, is principally responsible for the financial management of the refundable deposit and accommodation bond balances held by Council. The Refundable Deposit Manager will further ensure the liquidity management strategy as set out above is continuously reviewed, kept up-to-date with legislative changes, and is compliant.

**5. RECORDS STANDARD**

**5.1 Refundable Deposit Register**

Council will keep a register in the form of the Refundable Deposit Register to ensure that accurate, comprehensive, and up-to-date information on accommodation bonds and refundable accommodation deposit holdings is collected and maintained.

The Refundable Deposit Register further provides Council with a tool to easily provide its care recipients the information in relation to their refundable deposit or accommodation bond.

The Refundable Deposit Register will contain the information required as set out in Sections 46 and 47 of the Fees and Payment Principles for each care recipient in respect of whom a refundable deposit or accommodation bond is paid or refunded, or in respect of whom Council holds a refundable deposit or accommodation bond, as set out below:

Refundable deposits paid and refundable deposit balances held

- a) The name of the care recipient;
- b) The Resident Identification Number allocated by the Department in respect of the care recipient;
- c) The date on which the care recipient entered care at the McMaugh Gardens Aged Care Facility;
- d) The date on which the whole or each part of a refundable deposit paid by lump sum was paid for entry to McMaugh Gardens Aged Care Facility as referred to in (c) above;
- e) The amount of each payment referred to in (d) above;
- f) The amount of any deduction made from the refundable deposit;
- g) The date of any deduction referred to in (f) above;
- h) The reason for any deduction referred to in (f) above;
- i) The refundable deposit balance as at the end of each calendar month during which Council held a refundable deposit balance in respect of the care recipient;
- j) Any amount refunded to the care recipient for overpayment (as set out in section 75 of the Fees and Payment Principles); and
- k) The date of any refund referred as set out in (j) above.

Refundable deposit balances refunded

- a) if the refundable deposit balance was refunded because the care recipient died:
  - i) the date on which the care recipient died; and
  - ii) the date on which Council is shown the probate of the will of the care recipient or letters of administration of the estate of the care recipient (if applicable);
- b) if the refundable deposit balance was refunded because the care recipient ceased to be provided with care through McMaugh Gardens Aged Care Facility—the date on which the care recipient ceased to be provided with that care;
- c) if (b) above applies and the care recipient notified Council, before the date referred to in that paragraph, that the care recipient intended to enter another aged care service to receive residential care—the date of the notification;
- d) the date on which, or by which, the approved provider was required to refund the refundable deposit balance to the care recipient (as set out in Division 52P of the Act);
- e) the date on which the refundable deposit balance was refunded;
- f) the amount of the refundable deposit balance refunded;
- g) the amount (if any) of base interest paid under Division 1 of Part 7 of the Fees and Payment Principles and the date when the interest was paid; and
- h) the amount (if any) of maximum permissible interest paid under Division 1 of Part 7 of the Fees and Payment Principles and the date when the maximum permissible interest was paid.

Accommodation bonds paid and accommodation bond balances held

- a) The name of the care recipient;
- b) The Resident Identification Number allocated by the Department in respect of the care recipient;
- c) The date on which the care recipient entered care at the McMaugh Gardens Aged Care Facility on or after 1 July 2006;
- d) If, immediately before entering the McMaugh Gardens Aged Care Facility at the date set out in (c) above, the care recipient was provided with care through an aged care service (the original aged care service), and an accommodation bond was paid for the care recipient's entry to the original aged care service—the date on which the care recipient entered the original aged care service;
- e) The date on which the whole or each part of an accommodation bond paid by lump sum was paid for entry to the aged care service referred to in (c) above;
- f) The amount of each payment referred to in (e) above;
- g) The amount of any deduction made from the accommodation bond on or after 1 July 2006;
- h) The date of any deduction referred to in (g) above;
- i) The reason for any deduction referred to in (g) above;
- j) The accommodation bond balance as at 1 July 2006 (if applicable); and
- k) The accommodation bond balance as at the end of each calendar month commencing on or after 1 July 2006 during which Council held an accommodation bond balance in respect of the care recipient.

Accommodation bonds refunded

- a) If the accommodation bond balance was refunded because the care recipient died:
  - i) the date on which the care recipient died; and
  - ii) if applicable, the date on which the approved provider is shown the probate of the will of the care recipient or letters of administration of the estate of the care recipient;
- b) If the accommodation bond balance was refunded because the care recipient ceased to be provided with care through Council—the date on which the care recipient ceased to be provided with that care;
- c) If (b) above applies and the care recipient notified Council, before the date referred to in that paragraph, that the care recipient intended to enter another aged care service to receive residential care—the date of the notification;
- d) The date on which, or by which, Council was required to refund the accommodation bond balance to the care recipient, worked out, subject to the requirements of the Fees and Payment Principles and in accordance with Division 52P of the Act;
- e) The date on which the accommodation bond balance was refunded;
- f) The amount of the accommodation bond balance refunded;
- g) The amount (if any) of base interest paid and the date when the interest was paid;
- h) The amount (if any) of maximum permissible interest paid and the date when the maximum permissible interest was paid.

## 5.2 Responsibilities

The Chief Financial Officer, as Council's Refundable Deposit Manager, is principally responsible for the maintenance of the Refundable Deposit Register and ensuring the requirements of the Records Standard are complied with.

## **6. GOVERNANCE STANDARD**

### **6.1 Governance System**

An effective governance system which complies with the requirements of the Act and the Fees and Payment Principles reduces the risks of the misuse of bonds, late payment of bonds, or triggering the Accommodation Bond Guarantee Scheme.

Council will take all reasonable steps to:

- a) Ensure refundable deposits or accommodation bonds balances are only used for permitted uses in accordance with the Act;
- b) Ensure refundable deposits or accommodation bonds balances are refunded to care recipients in accordance with the Act;
- c) Monitor the need to change processes from time to time particularly in the event of any non-compliance with the policy;
- d) In the event, any non-compliance with the regulations has been identified, or any amendment made to the government regulations the policy will be reviewed and updated.

### **6.2 Permitted Uses of Refundable Deposits and Accommodation Bonds**

Whilst one or more refundable deposits or accommodation bonds are held on behalf of a care recipient, any refundable deposits or accommodation bonds held must only be used for a permitted use, as defined in the Act (section 52N-1) and the Fees and Payment Principles (Part 6).

Use of refundable deposits or accommodation bonds is permitted if the refundable deposit or accommodation bond is:

- a) Used for capital expenditure that is:
  - i) Expenditure to acquire land on which are, or are to be built, the premises needed for providing residential care or flexible care;
  - ii) Expenditure to acquire, erect, extend or significantly alter premises used or proposed to be used for providing residential care or flexible care;
  - iii) Expenditure to acquire or install furniture, fixtures, fittings and equipment for premises used or proposed to be used for providing residential care or flexible care, but only when those premises are initially erected or following an extension or a significant authorisation or significant refurbishment;
  - iv) Expenditure that is directly attributable to any of the items mentioned above; and
  - v) Any other expenditure specified in the Fees and Payment Principles.
- b) Invested in certain financial products as permitted by the Act, such as and including term deposits, securities, and debentures, and in accordance with Council's Investment Policy;
- c) Used to make a loan in relation to which the following conditions are satisfied:
  - i) the loan is not made to an individual;
  - ii) the loan is made on a commercial basis;
  - iii) there is a written agreement in relation to the loan;



- iv) there is a condition of the written agreement that the money loaned will only be used for capital expenditure or investment in permitted financial products as set out in a) and b) above and as prescribed under the Act; and
- v) the agreement includes any other conditions specified in the Fees and Payment Principles.
- d) Used to refund refundable deposits or accommodation bonds balances;
- e) Used to repay debt accrued for the purposes of capital expenditure or refunding refundable deposits or accommodation bond balances;
- f) Used to repay debt accrued before 1 October 2011 if the debt is accrued for the purposes of providing aged care to care recipients; or
- g) Is otherwise used as permitted by the Fees and Payment Principles.

### 6.3 Investment Management Strategy

Accommodation bonds are permitted under the Act to be invested in a broad range of products to enable Council to manage its financial investments in line with its broader business model and corporate capabilities, as well as a source of additional income.

In circumstances where accommodation bonds are not immediately required for other permitted uses, Council may invest bonds in order to generate additional income, in accordance with Council's Investment Policy and within the limitations of Council's Liquidity Management Strategy as set out at 4.1 of this policy.

Council's Investment Policy addresses the risk assessment in its ability to refund refundable deposit balances or accommodation bond balances in accordance with the Act. This risk assessment has guided the minimum level of liquidity as set out in 4.1 of this policy.

To enable Council to achieve its investment objectives while ensuring risks are minimised and Council is able to refund balances in accordance with the Act, refundable deposits and accommodation bonds held by Council will only be invested in accordance with its Investment Policy.

### 6.4 Refund of Refundable Deposit and Accommodation Bond Balances

In compliance with section 52P-1 of the Act, refundable deposit and accommodation bond balances must be refunded by Council within 14 days of Council receiving the appropriate documentation and certification or on the day in which the care recipient ceases to be provided with care, whichever is later.

### 6.5 Responsibilities and Delegated Authority

Council's Chief Financial Officer, as Council's Refundable Deposit Manager, is principally responsible for the financial management of the refundable deposit and accommodation bond balances held by Council. The amount of Refundable Accommodation Deposits, with the status of restriction, will be reported in the monthly cash and investment report for the ordinary meeting of Council.

The Refundable Deposit Manager will acknowledge their responsibilities by confirming receipt of a copy of this policy. This acknowledgement shall record the Refundable Deposit Manager

understands their obligations and the requirements of the Act and the Fees and Payment Principles in relation to refundable deposits and accommodation bonds.

Related training is to be undertaken following changes to the relevant legislation or as necessitated by a change in staff to a responsible position or the position responsibilities.

Relevant delegated authority from the General Manager to Council Officers is set out in Council's Delegations of Authority policy.

#### 6.6 Reporting Mechanisms and Responding to Non-Compliance

The Chief Financial Officer and Director of Nursing/Facility Manager McMaugh Gardens Aged Care Facility report directly to the General Manager, ensuring Council can effectively monitor and control the use of refundable deposit balances and accommodation bond balances.

Following best accounting practice further ensures Council is able to quickly detect, record and respond to any failure to comply with the requirements of the Act and the Fees & Payment Principles.

In the event that non-compliance has been identified, this is to be reported to Council's Audit, Risk and Improvement Committee to identify steps to most effectively rectify the non-compliance.

Additional controls are provided by way of Council's Internal Reporting Policy, which facilitates the reporting of any suspected wrongdoing by Council officials or members of other public authorities.

## 7. DISCLOSURE STANDARD

### 7.1 Annual Prudential Compliance Statement

Council is required to provide an annual prudential compliance statement to the Department for the financial year including certain information on refundable deposits and accommodation bonds as set out in sections 52, 53, 54A, 55 of the Fees and Payment Principles.

The annual prudential compliance statement must be supported by an independent audit.

### 7.2 Disclosure to Care Recipients

Within seven (7) days of entering into an accommodation agreement, Council will notify a care recipient in writing that Council will provide the following information and documents to the care recipient, or within seven (7) days upon the request to do so:

- a) A copy of this policy, which summarises the permitted uses for which refundable deposits and accommodation bonds have been used by Council during the previous financial year;
- b) Information about whether Council has, during the previous financial year, complied with the prudential standards and permitted uses of refundable deposits and accommodation bonds as set out in the Act;
- c) The number (if any) of refundable deposit balances or accommodation bond balances that, in the previous financial year, were not refunded in accordance with clause 6.4 of this policy and subsection 52P 1(4) of the Act;

- d) A copy of Council's Investment Policy, which sets out Council's investment objectives and the asset classes Council may invest in;
- e) A copy of the audit opinion of the previous year;
- f) A copy of the most recent statement of the audited accounts of Council's aged care services; and
- g) A copy of the entry in the refundable deposit register that relates to the care recipient, as at the time of the request.

### 7.3 Annual Disclosure to Care Recipients

Within four months of the end of the financial year Council must give each care recipient who has paid a refundable deposit or accommodation bond to Council the following documents:

- a) A copy of the entry in the refundable deposit register that relates to the care recipient as at the end of the financial year; and
- b) A written statement that Council will provide, within seven (7) days of a request by the care recipient, any information and documents the care recipient is entitled to receive under the disclosure standard as set out in a) to g) of 7.2 above.

### 7.4 Disclosure to Prospective Care Recipients

Within seven (7) days of a request from a prospective care recipient (or a prospective care recipient's representative), Council will give the prospective care recipient (or the representative) the information and documents as set out in a) to g) of 7.2 above.

### 7.5 Responsibilities

Council's Chief Financial Officer is principally responsible for the preparation and completion of the annual prudential compliance statement and engaging the independent auditor.

The Director of Nursing/Facility Manager McMaugh Gardens Aged Care Facility is principally responsible for ensuring requirements regarding the disclosure to care recipients and prospective care recipients are complied with.

## 8. POLICY REVIEW

This policy to be reviewed annually or as required by legislative changes.

This policy may also be changed as a result of other amendments that are to the advantage of Council and in the spirit of this policy. Any amendment to this policy must be by way of Council resolution.